

IN RE: PETITION FOR ZONING VARIANCE
S/S Trumps Mill Rd., 120 ft.
W of c/s Hensel Avenue
5603 Trumps Mill Road
15th Election District
6th Councilmanic District
John Gwiazdowski, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-388-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a zoning variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the side yard in lieu of the back yard, as more particularly described on Petitioner's Exhibit No. 1.

The Petitioner, John Gwiazdowski, appeared and testified. There were no Protestants.

Testimony indicated that the subject property known as 5603 Trumps Mill Road consists of 1.04 acres +/- zoned D.R.3.5 and is currently improved with an existing single family dwelling.

The Petitioner testified that he is desirous of constructing the proposed 20 x 15 ft. garage, but is limited as to its location on the site, as the subject property is traversed by the 100 year flood plain line. Petitioner's Exhibit No. 1 indicated that said flood plain consumes approximately two-thirds of his property.

The Petitioner testified that he would like to run electric and water to the proposed garage. The Petitioner also testified that he has advised his immediate neighbors of his proposal and that said neighbors are in support of the granting of the requested relief.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soloy, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variance was not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety and general welfare.

-2-

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of July, 1991 that the Petition for a Zoning Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow an accessory structure in the side yard in lieu of the back yard, in accordance with the Petitioner's Exhibit No.1, is hereby GRANTED.

1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

3. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
encl.
cc: Peoples Counsel

-3-

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

July 26, 1991

Mr. and Mrs. John Gwiazdowski
5603 Trumps Mill Road
Baltimore, Maryland 21206

RE: Petition for Zoning Variance
Case No. 91-388-A

Dear Mr. and Mrs. Gwiazdowski:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:mmm
encl.
cc: Peoples Counsel

PETITION FOR RESIDENTIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

91-388-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, petition for a Variance from Section

400.1 of the Baltimore County Zoning Regulations to allow an accessory structure in the side yard in lieu of the back yard.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons (Indicate hardship or practical difficulty)

1. Zoning regulations require, in my vicinity, for all garages to be in the rear of the dwelling. There is a 100-year flood plain in the rear of my house which makes it impossible to conform with the regulation.
2. The east side of building envelope is only option remaining for garage. Property is to be advertised and/or posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Variance posting and, if necessary, advertising, upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law of Baltimore County.

I/we do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City/State/Zip Code

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Attorney's telephone number

Legal Owner(s):

JOHN GWIAZDOWSKI

(Type or Print Name)

Signature

MARY L. GWIAZDOWSKI

(Type or Print Name)

Signature

Address

BALTIMORE, MD. 21206

City/State/Zip Code

Name, address and phone number of legal owner, contract purchaser or representative to be contacted.

Name

Address

Phone

ORDERED by the Zoning Commissioner of Baltimore County, this 15th day of April, 1991, that the subject matter of this petition be posted on the property on or before the 15th day of May, 1991.

ZONING COMMISSIONER OF BALTIMORE COUNTY

AFFIDAVIT

IN SUPPORT OF RESIDENTIAL ZONING VARIANCE

91-388-A

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 5603 Trumps Mill Road,
Baltimore, MD 21206
(Address)

That based upon personal knowledge, the following are the facts upon which I/we base the request for a Residential Zoning Variance at the above address: (Indicate hardship or practical difficulty)

1. Zoning regulations require, in my vicinity, for garages to be in the rear of the dwelling. There is a 100-year flood plain in the rear of my house which makes it impossible to conform with the regulation.
2. The east side of the building envelope is only option remaining for garage.

That Affiant(s) acknowledge(s) that if protest is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Mary L. Gwiazdowski
AFFIANT (Handwritten Signature)
MARY L. GWIAZDOWSKI
AFFIANT (Printed Name)

John Gwiazdowski
AFFIANT (Handwritten Signature)
JOHN GWIAZDOWSKI
AFFIANT (Printed Name)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 14th day of April, 1991, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Mary L. Gwiazdowski
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal.

DATE 4/14/91

NOTARY PUBLIC

My Commission Expires: 7/1/91

ZONING DESCRIPTION 91-388-A

Beginning on the south side of Trumps Mill Road 30 feet wide, at the distance from the northeast corner of Lot 20 of 120 feet west of the center line of Hensel Avenue. Being Lot 20, Block 1, in the subdivision of Kenwood Park. Book No. 52, Folio 46. Also known as 5603 Trumps Mill Road in the 14th Election District.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 1544 Date of Posting 4/24/91
Posted for Variance
Petitioner: John Gwiazdowski, et ux
Location of property: 5603 Trumps Mill Rd., 120' of Hensel Ave.
Location of Sign: Trump's Mill Rd. near R. E. Hensel Ave.
Remarks: On property of R. E. Hensel
Posted by M. Haines Date of return: 7/3/91
Number of Signs: 1

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 1544 Date of Posting 4/30/91
Posted for Variance
Petitioner: John Gwiazdowski, et ux
Location of property: 5603 Trumps Mill Rd., 120' of Hensel Ave.
Location of Sign: Trump's Mill Rd. near R. E. Hensel Ave.
Remarks: On property of R. E. Hensel
Posted by M. Haines Date of return: 7/3/91
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 6/14, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/13, 1991.

THE JEFFERSONIAN,

S. Zake Orlov
Publisher

\$32.93

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by the authority of the Zoning and Planning Department, will hold a public hearing on the proposed Variance from Section 400.1 of the Baltimore County Zoning Regulations, to be held at 111 West Chesapeake Avenue in Towson, Maryland 21204, on July 16, 1991 at 9:00 a.m.

Case Number: 91-388-A
S/S Trumps Mill Road, 120' W of Hensel Avenue
5603 Trumps Mill Road
15th Election District
6th Councilmanic District
Petitioner: John Gwiazdowski, et ux
Hearing Date: Tuesday, July 16, 1991 at 9:00 a.m.
Variance: to allow an accessory structure in the side yard in lieu of the back yard.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
6/108 June 13.

CERTIFICATE OF PUBLICATION

Office of

THE AVENUE NEWS

442 Eastern Blvd.
Baltimore, Md. 21221

June 13, 1991

THIS IS TO CERTIFY, that the annexed advertisement of

John Gwiazdowski in the matter of Zoning Hearing of 5603 Trumps Hill Rd.
P.O. # 01128683, Case # 91-388-A, Reg #952871
49 lines @ \$5 or \$26.95

was inserted in **The Avenue News** a weekly newspaper

published in Baltimore County, Maryland once a week for

successive week(s) before the day of June 19 91

that is to say, the same was inserted in the issues of June 13, 1991.

The Avenue Inc.

per publisher

By *Quinn Blackwell*

NOTICE OF HEARING
The Zoning Commission of Baltimore County, Maryland, will hold a public hearing on the proposed rezoning of the property located at 5603 Trumps Hill Road, Baltimore, Maryland, from its present zoning of R-1 to R-2. The hearing will be held on Tuesday, July 16, 1991, at 9:00 a.m. in the County Office Building, Room 106, 111 West Chesapeake Avenue, Towson, Maryland 21204. The proposed rezoning is for a single-family detached dwelling. The property is currently zoned R-1 and is owned by John Gwiazdowski. The rezoning is being requested by John Gwiazdowski, et ux. The proposed rezoning is for a single-family detached dwelling. The property is currently zoned R-1 and is owned by John Gwiazdowski. The rezoning is being requested by John Gwiazdowski, et ux.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date

RECEIVED
BALTIMORE COUNTY
ZONING COMMISSIONER
COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
TOTAL \$60.00

Please Make Checks Payable To: Baltimore County
0600440055MICHC
06004413F04-01-91

\$60.00

Cashier Validation

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

Date

Please Make Checks Payable To: Baltimore County
0600440055MICHC
06004413F04-01-91

\$60.00

Cashier Validation

receipt

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 6/25/91

Mr. & Mrs. John Gwiazdowski
5603 Trumps Hill Road
Baltimore, Maryland 21206

RE:
Case Number: 91-388-A
S/S Trumps Hill Road, 120' W of c/l Hensel Avenue
5603 Trumps Hill Road
15th Election District - 6th Councilmanic
Petitioner(s): John Gwiazdowski, et ux
HEARING: TUESDAY, JULY 16, 1991 at 9:00 a.m.

Dear Petitioner(s):

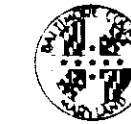
Please be advised that \$84.75 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

May 31, 1991

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-388-A
S/S Trumps Hill Road, 120' W of c/l Hensel Avenue
5603 Trumps Hill Road
15th Election District - 6th Councilmanic
Petitioner(s): John Gwiazdowski, et ux
HEARING: TUESDAY, JULY 16, 1991 at 9:00 a.m.

Variance to allow an accessory structure in the side yard in lieu of the back yard.

Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. Gwiazdowski

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

May 22, 1991

Mr. & Mrs. John Gwiazdowski
5603 Trumps Hill Road
Baltimore, MD 21206

RE: Item No. 377, Case No. 91-388-A
Petitioner: John Gwiazdowski, et ux
Petition for Residential Variance

Dear Mr. & Mrs. Gwiazdowski:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this
13th day of March, 1991.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: John Gwiazdowski, et ux

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: April 24, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: John Gwiazdowski, Item No. 377 ✓
Roland E. Hess, Item No. 356
Richard S. Cook, Item No. 382
Frank Limmer, Item No. 389
David C. Berg, Item No. 391
Marie E. Martin, Item No. 357
Steven G. Hipley, Item No. 374
David G. Rorison, Item No. 376
Timothy C. Seiss, Item No. 378
John Alban, Item No. 383

In reference to the following variance requests, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

MULTI-ITM/ZAC1

received
4/26/91

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

APRIL 24, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JOHN GWIAZDOWSKI

Location: #5603 TRUMPS MILL ROAD

Item No.: 377 Zoning Agenda: APRIL 23, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Pat Keller* Noted and Approved *Jeffrey Long*
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 26, 1991
FROM: Dennis A. Kennedy, P.E.
RE: Zoning Advisory Committee Meeting
for April 23, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for items 356, 377, 382, 386, 388, 389, 390 and 391.
For Item 379, this site must be submitted through the minor subdivision process for review and comments.

Dennis A. Kennedy
Dennis A. Kennedy, P.E., Acting Chief,
Developers Engineering Division

DAK:s

received
5/10/91

Baltimore County Government
Department of Public Works
Bureau of Traffic Engineering

401 Bosley Avenue, Suite 405
Towson, MD 21204

887-3554
Fax 887-5784

May 14, 1991

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

A.Z.C. Meeting Date: April 23, 1991

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 356, 377, 379, 382, 386, 388, 389, 390 and 391.

Very truly yours,

Rahce J. Famili
Rahce J. Famili
Traffic Engineer II

RJF/lab

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

April 9, 1991

John Gwiazdowski
Mary L. Gwiazdarski
5603 Trumps Mill Road
Baltimore, MD 21206

RE: Petition Filed in Zoning Office
Item Number 377

Dear Petitioner:

This letter is to inform you that, due to a technical problem, your Petition for Residential Variance has not been placed on the agenda for the week of April 16, 1991. According to our records, this Petition was filed on April 1, 1991 with John R. Alexander.

In order for this Petition to be placed on the next agenda, you must contact John Alexander at 887-3391 to rectify the problem.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:scj

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

May 24, 1991

Mr. & Mrs. John Gwiazdowski
5603 Trumps Mill Road
Baltimore, Maryland 21206

Re:
CASE NUMBER: 91-388-A

Dear Petitioners:

By Order of the Zoning Commissioner's Office, dated MAY 22, 1991, this matter must be scheduled for a public hearing.

Formal notification of the hearing date will be forwarded to you shortly. As you recall, it will now be necessary to run notice of the hearing in two local newspapers. You will be billed for these advertising costs.

If you have any questions, please do not hesitate to contact this office.

Very truly yours,

/s/
G. G. Stephens
(301) 887-3391

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

April 22, 1991

Mr. & Mrs. John Gwiazdowski
5603 Trumps Mill Road
Baltimore, Maryland 21206

Re: CASE NUMBER: 91-388-A
LOCATION: S/S Trumps Mill Road, 120' W of c/l Hensel Avenue
5603 Trumps Mill Road

Dear Petitioner(s):

Please be advised that your Petition for Residential Zoning Variance has been assigned the above case number. Any contact made to this office should reference the case number. This letter also serves as a refresher regarding the administrative process.

1) Your property will be posted on or before May 1, 1991. The last date (closing date) on which a neighbor may file a formal request for hearing is May 16, 1991. Should such request be filed, you will receive notification that the matter will not be handled through the administrative process. This will mean advertising of the public hearing and reopening of the property. The public hearing will be scheduled approximately 30 - 45 days from receipt of said notice. In either case, (a) receipt of notification that you will have a public hearing or, (b) the passing of the closing date, the sign and post can then be removed from the property and returned to this office. Failure to return the sign and post will cause your order to be held and incur a \$50.00 charge. Please be advised that the order will not be available for you to pick-up the day you return the sign.

2) Assuming no neighbor has requested a public hearing, the file now enters the final review stage of the administrative process. The Zoning Commissioner must now decide whether to grant or deny the request. He also has the option to request a public hearing.

3) PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW AND THE DECISION MAKING PROCESS. WHEN THE ORDER IS READY IT WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION PRIOR TO BEING MAILED TO YOU.

Very truly yours,

G. G. Stephens
(301) 887-3391

IS RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S Trump Mill Road, 120' W * ZONING COMMISSIONER
of the c/l of Hensel Avenue * OF BALTIMORE COUNTY
(5603 Trump Mill Road) *
14th Election District *
6th Councilmanic District * Case No. 91-388-A
John Gwiazdowski, et ux *
Petitioners *

MERITORICUM AND ORDER

The Petitioners herein request a variance to permit a tract boundary setback of 20 feet for a proposed dwelling in lieu of the required 35 feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioners appeared and testified. There were no protests.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, it is the opinion of the Zoning Commissioner that the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and therefore, the variance should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

WHEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of April, 1991 that a tract boundary setback of 20 feet for a proposed dwelling in lieu of the required 35 feet, in accordance with Petitioner's Exhibit 1, be approved, and a such, the Petition for Zoning Variance is hereby GRANTED, subject, however, to the following restriction:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
J. Robert Haines
Zoning Commissioner of
Baltimore County

JRH:bjs

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines
TO: Zoning Commissioner

Date: March 24, 1988

FROM: P. David Fields
Director of Planning and Zoning
Zoning Petition Nos. 88-400-A,
88-402-A, 88-403-A, 88-404-A,
88-405-A, 88-406-A, 88-407-A

There are no comprehensive planning factors requiring comment on this petition.

P. David Fields per J. Haines
P. David Fields
Director

PDF:dne

cc: Mr. Shirley M. Bend, Legal Assistant, People's Counsel
File

377
#253
PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1801.2.C.2.a to permit a tract boundary setback of 20 ft. in lieu of the required 35 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)
1. The excavator explained that moving the southwest corner of proposed house over from 35 feet to 20 feet to the property line would help prevent water damage to the footers and foundation wall on the southeast corner by the floodplain stream.
2. The street is actually 4 feet higher in elevation than the existing ground for the proposed house. This could cause potential flooding problems of the property and house in the event of the drainage ditch flooding over and naturally sloping onto the lower property elevation.
3. Moving the building envelope for the minimum side yard distance from 35 feet to 20 feet on the west side would definitely decrease the possibility of flood problems. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I, We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Legal Owner(s):
John Gwiazdowski
(Type or Print Name)
Signature
Mary Gwiazdowski
(Type or Print Name)
Address
City and State
Attorney for Petitioner:
5012 E. Preston St. 483-2688
(Type or Print Name) Address Phone No.
Baltimore, Maryland 21205
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State
Attorney's Telephone No.: Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this day of 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the day of 1990, at o'clock M.

ESTIMATED LENGTH OF HEARING -1/2HR. +1HR. Zoning Commissioner of Baltimore County.
AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS (over)
ALL OTHER
REVIEWED BY: ucr DATE 1/13/87

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

December 6, 1989

NOTICE OF HEARING

Dennis F. Ramussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-279-A
Trumps Mill Road at the northeast corner of Lot #22
5701 Trumps Mill Road
14th Election District - 6th Councilmanic
Petitioner(s): Michael Perholtz, et ux
HEARING: WEDNESDAY, JANUARY 10, 1990 at 2:00 p.m.

Variance to allow a height of 25 feet in lieu of 15 feet for an accessory structure (detached garage).

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE:
(If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.)

J. Robert Haines
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRHugs
cc: Petitioners

IN RE: PETITION FOR ZONING VARIANCE
NE/S Trumps Mill Road, SE of
Hensel Avenue
(5701 Trumps Mill Road)
14th Election District
6th Councilmanic District
Michael Perholtz, et ux
Petitioners
BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-279-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an accessory structure (garage) height of 25 feet in lieu of the maximum permitted 15 feet in accordance with Petitioner's Exhibit 1.

The Petitioners, by Patricia Perholtz, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 5701 Trumps Mill Road, consists of 0.61 acres zoned D.R. 3.5 and is improved with a two and one-half story single family dwelling which has been Petitioners' residence for the past 20 years. Mrs. Perholtz testified the Petitioners were in the process of constructing a garage to the rear of the subject property in conformance with the zoning regulations when it was determined that additional storage space was necessary. Petitioners' daughter and granddaughter have moved back home and Petitioners are planning to convert the third floor attic space into a large bedroom for their daughter and grandchild. Testimony indicated this will necessitate the removal of family belongings and storing them in the garage. Mrs. Perholtz testified that the purpose for the additional height was not to create a second dwelling unit above the garage and that she would be willing to permit an inspection of the property upon request to insure compliance with the zoning regulations. She testified that while she had been advised

that she may have sufficient acreage to subdivide the property and transfer a portion of the property to another party for a separate dwelling, that was not her intention at this time. Mrs. Perholtz testified that she has spoken with her neighbors who have no objections to their plans. Further testimony indicated that the granting of the variance will not result in any detriment to the health, safety or general welfare of the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.2.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

- 2 -

CASE NUMBER

91-388-A



East side of property.
Proposed garage site.



East side of Property.
Proposed garage site.

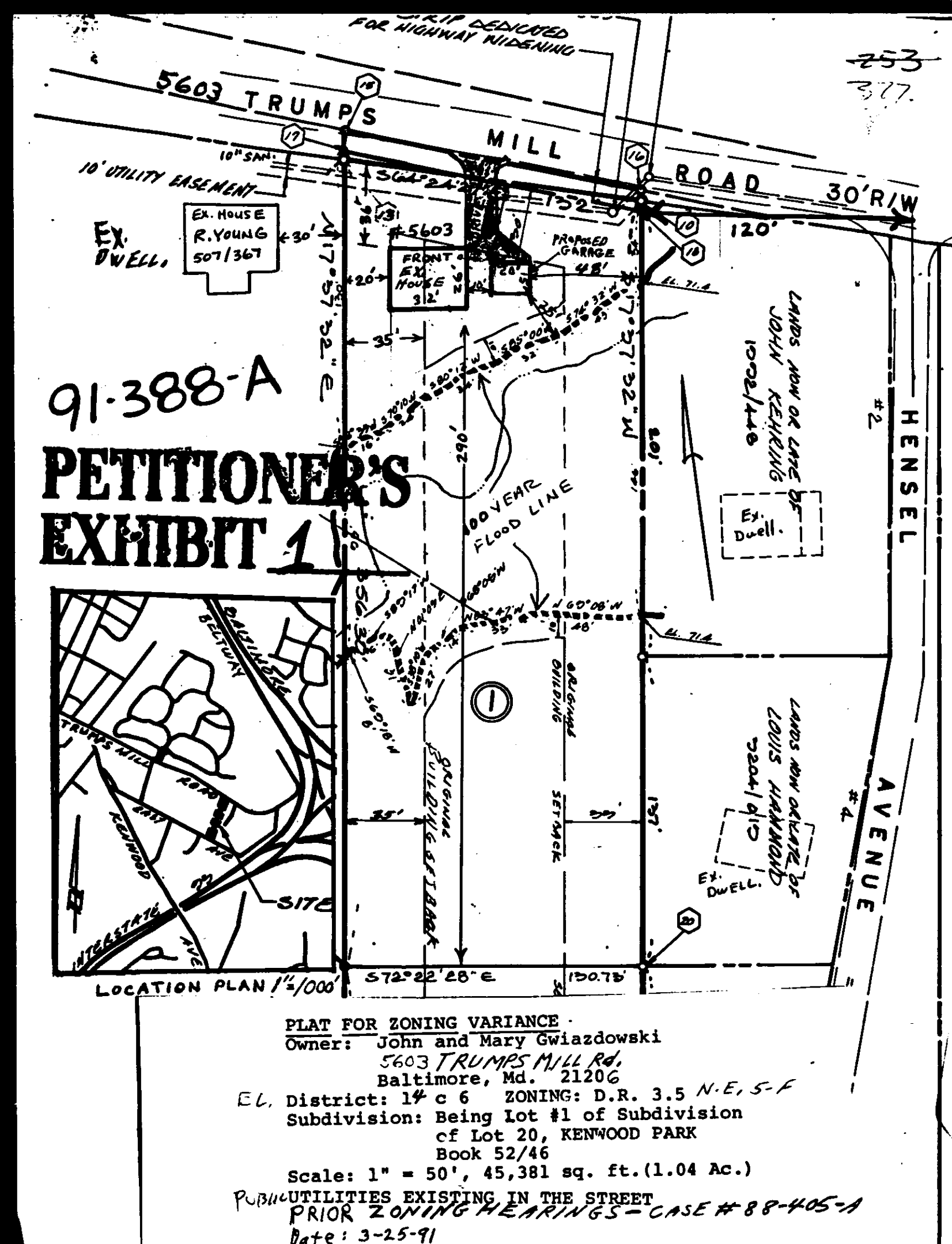
PETITIONER'S EXHIBIT # 2

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 12th day of January, 1990 that the Petition for Zoning Variance to permit an accessory structure (garage) height of 25 feet in lieu of the maximum permitted 15 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

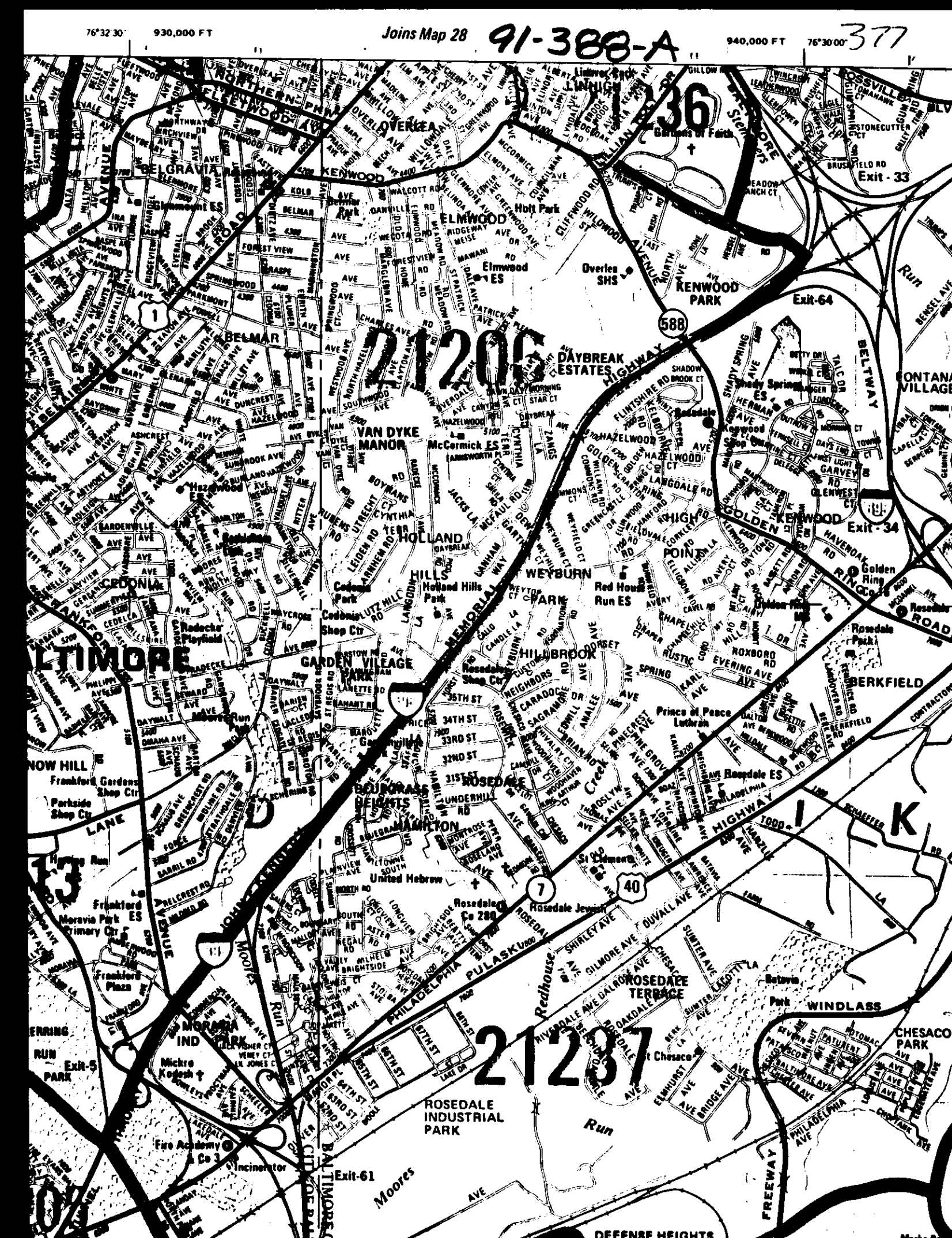
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartments. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.
- 3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

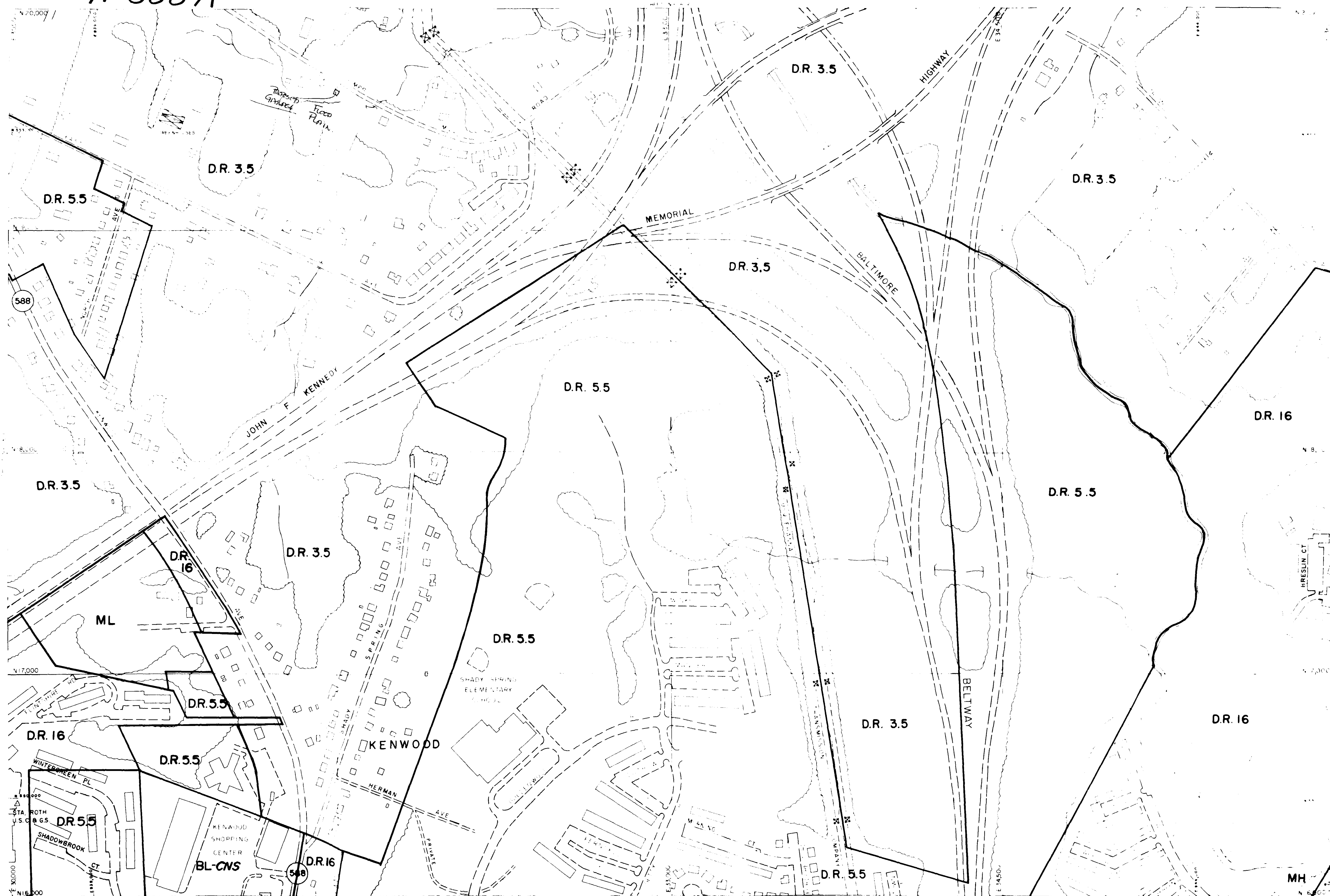


PLAT FOR ZONING VARIANCE
Owner: John and Mary Gwiazdowski
5603 TRUMPS MILL RD.
Baltimore, Md. 21206
E.L. District: 14 c 6 ZONING: D.R. 3.5 N.E. S.F.
Subdivision: Being Lot #1 of Subdivision
of Lot 20, KENWOOD PARK
Book 52/46
Scale: 1" = 50'. 45,381 sq. ft. (1.04 Ac.)
PUB. UTILITIES EXISTING IN THE STREET
PRIOR ZONING HEARINGS - CASE # 88-405-A
Date: 3-25-91



91-388-A

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J-NE I-NW
N-SE M-SW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988

Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
GOLDEN RING
KENWOOD

MH
SHEET
N E
5-F

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

91-388-A

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BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE
1" = 200' ±

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
GOLDEN RING
KENWOOD

SHEET
N.E.
5-F